5

1 SINGLE BENCH

CF 100/-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition (C) No. of 2006

PETITIONER/:
(Plaintiff)

Rameshwar Prasad Tiwari,
S/o Bhagwandin Tiwari,
Aged about 79 years,
R/o Near Dr. Pendalwar,
Torwa, Bilaspur,
Tehsil & District: Bilaspur,
Chhattisgarh.

P.R. No. 5946/06
Presented by Shri Yogendra Soni
dated 30/10/06

- Versus -

RESPONDENTS/:
(Defendants)

1. Ashok Kumar Ubrati (Sindhi),
S/o Sewak Ram Sindhi,
R/o Torwa, Bilaspur,
Tehsil & District: Bilaspur,
Chhattisgarh.

2. State of Chhattisgarh,
Through the Collector,
Bilaspur, District: Bilaspur,
Chhattisgarh.

RECEIVED COPY
30/X/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

XI-HC-22

134

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.(C) No. 5913/2006

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.11.2006

Shri Rajeev Shrivastava, learned counsel for the petitioner.

Heard on admission.

By this writ petition filed under Article 227 of the Constitution of India, the petitioner has challenged the legality of the order dated 20.9.2005 passed by the 1st Civil Judge, Class-II, Bilaspur, in pending Civil Suit No.67-A/2005 (old No.85/2000). By the said order, the learned trial Judge has allowed the application of the defendant by which he had prayed for recalling the plaintiff's witnesses for their cross examination on the grounds that an application for amendment in the written statement was allowed by the trial Court on which, it was necessary for him to further cross examine the plaintiff's witnesses.

Learned counsel for the petitioner submits that in this case, the plaintiff had closed his evidence on 27.8.2001 and thereafter the defendants took many dates for adducing their evidence, but they could not adduce their evidence and ultimately an application for amendment in written statement was filed on 24.7.2002 and the same was allowed on 12.9.2002 and thereafter, this application has been filed and the same has also been allowed. His submission is that the application is malafide with an intention to delay the proceedings of the civil suit. It is stated by learned counsel that the order about allowing the amendment application was not challenged by the Plaintiff in revision or writ petition.

Since the trial Court has allowed the application on the ground of amendment permitted to be incorporated in the writ petition, I am not interfering with the aforesaid impugned order in my supervisory jurisdiction. However, looking to the inordinate delay in prosecution of the

ये)

XI-HC-22

135

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.(C) No. 5913/2006 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

suit, particularly on the part of defendant, I dispose of this petition on the following terms:

(i) that the plaintiff will produce his all the witnesses (3 in number) on the next date of hearing before the trial Court and the trial Court shall permit the defendant to cross examine those witnesses as per the impugned order and if their cross examination is not completed on the said date, the matter shall continue on the subsequent day;

(ii) after completion of the cross examination, the trial Court will fix a date within 30 days from the said date for producing defendant's evidence on day to day basis and after completion of the defendant's evidence, hearing of the trial shall be expedited at the earliest. If the defendant intends to produce any witnesses for which a service is required, necessary steps be taken immediately even before the subsequent date fixed for hearing of the case so as to assure that the witnesses of the defendant are produced within the said period of 30 days, which shall be fixed by the trial Court, according to this order.

With the aforesaid observations, this petition is summarily disposed of at the motion stage.

Consequently, M.W.P.No.4431/2006 for interim stay also stands disposed of.

Sd/-
Sunil Kumar Sinha
Judge

Rao

(पीछे देखिये)